

DRAFT

MINUTES OF THE CITY COUNCIL
OF THE
CITY OF GREENSBORO, N. C.

REGULAR MEETING:

16 OCTOBER 2001

The City Council of the City of Greensboro met in regular session at 6:00 p.m. on the above date in the Council Chamber of the Melvin Municipal Office Building with the following members present: Mayor Keith A. Holliday, presiding; Councilmembers Claudette Burroughs-White, Sandra G. Carmany, Earl Jones, Yvonne J. Johnson, Robert V. Perkins, Thomas M. Phillips, Donald R. Vaughan. Absent: Councilmember Nancy Vaughan. Also present were J. Edward Kitchen, City Manager; Linda A. Miles, City Attorney; and Susan E. Crotts, Deputy City Clerk.

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The Mayor opened the meeting with a moment of silence and the pledge of allegiance to the flag.

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The City Manager recognized Louise Britt, who served as courier for the meeting.

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Mayor Holliday outlined the procedures for conduct of the meeting.

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Councilmember Burroughs-White moved that Councilmember N. Vaughan be excused from the meeting due to illness. The motion was seconded by Councilmember Johnson and unanimously adopted by voice vote of Council.

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The Mayor stated that this was the time and place set for a public hearing to consider an ordinance amending the Greensboro Code of Ordinances, Chapter 30: Zoning, Planning and Development, to increase the spacing requirements that Sexually Oriented Businesses must achieve with regard to certain land uses and residentially zoned property from 500 feet to 1,000 feet and to provide for the discontinuance of nonconforming Sexually Oriented Businesses within two years of the effective date of the ordinance.

Bill Ruska, Zoning Administrator, stated the ordinance pertained to development standards regarding sexually oriented businesses (SOBs) and had been recommended by the Multi Jurisdictional Development Ordinance Committee and the Planning Board. Mr. Ruska explained that the State required a five-year amortization period for SOBs (not including book or video stores) to require a 1000 foot separation from residentially zoned property and that the Planning Board had changed the five year period to a two-year period on a vote of 5 to 2, with the dissenting votes seeking a lesser amortization period.

Mr. Ruska stated it had been determined through various court cases that studies done in other cities and jurisdictions could be used to look at the potential secondary effects of sexually oriented businesses. Citing studies performed in fourteen communities of secondary effects of sexually oriented business, Mr. Ruska listed the detrimental effects from SOBs on neighborhoods as: increases in sex crimes, property crimes and violent crimes; decreases in the market value of both residential and nonresidential property; the attraction of undesirable persons, safety threats to residents, especially children; the deterrence of home sales, and deterioration of the immediate area from trash, debris and vandalism- leading to neighborhood blight in general; detrimental effects of noise and traffic during late night hours; and prostitute and drug problems. Mr. Ruska noted that this information was obtained from

the Institute of Government, University of North Carolina, Chapel Hill.

Councilmember Jones entered the Chamber at 6:10 p.m.

In response to questions regarding grandfathering in cities cited in the study, Mr. Ruska advised that the memo to the City Manager included in the agenda packet for this meeting provided this information with an almost verbatim quoting of the presentation made to the Planning Board.

The City Attorney requested Council to make the above referenced Manager memo a part of the official record. Councilmember D. Vaughan moved to make the memo part of the official record. The motion was seconded by Councilmember Carmany and unanimously adopted by voice vote of Council.

(A copy of the memo to the City Manager provided in this Council Agenda packet is filed in Exhibit Drawer N, Exhibit Number 30, and is hereby referred to and made a part of the minutes.)

Captain Al Stewart of the Greensboro Police Department, stated that at the request of staff, an 18-month period had been examined for cost of service for police calls at SOBs to determine if a disproportionate number of calls were required because of adult-type businesses. He cited statistics from the study that indicated the high proportion of calls was relative to the business type at a number of SOBs. Councilmember Carmany noted that she had attended the Planning Board hearing for this matter and had in her possession detailed information provided at that hearing with respect to this study. The City Attorney requested this information be made a part of the official record. Councilmember Carmany moved that the introduction of the materials presented at the Planning Board hearing be made a part of the official record. The motion was seconded by Councilmember D. Vaughan and unanimously adopted by voice vote of Council. (A copy of the information from the Planning Board hearing is filed in Exhibit Drawer N, Exhibit Number 30, and is hereby referred to and made a part of the minutes.)

In response to questioning by Council, Captain Stewart explained that nuisance abatement and investigation of misdemeanor prostitution offenses were generated by complaints from the community. He advised that because resources were limited, they were typically focused on more severe felony criminal activities.

The City Attorney advised Council that they should look at how the ordinance would affect the community at large in terms of zoning and that they could not look at the emotional aspects of prostitution.

The following speakers spoke in favor of the ordinance:

Dale Dragomir, residing at 1201 Merrit Drive, stated he served as Pastor of Hunter Hills Church, shared his opinions with respect to the impact of pornography on men, the need to protect women and children from the impact of pornography, and the magnitude of pornography's effects on society. He requested Council to adopt the ordinance.

Ron Mack, residing at 301 Ridgeway Drive, spoke in favor of the ordinance on behalf of the Koury Corporation, owner of numerous properties in Greensboro with different uses including malls and shopping centers. Citing his role of responsibility for the Corporation's retail portfolio, Mr. Mack spoke to his experience with the adverse effect of leasing property in close proximity to SOBs. He provided examples of major businesses and tourist attractions that were, in his opinion, negatively impacted by the proximity of SOBs. He requested Council to adopt the ordinance.

The following speakers voiced opposition to the ordinance.

Christopher Plano, residing at 817-B Silver Avenue, stated his opposition to the ordinance, expressed his opinion that information presented by Mr. Ruska and Captain Stewart were not relevant and the ordinance was not constitutional. Noting that he had a vested interest in a nightclub, Mr. Plano requested that additional information be obtained prior to Council's decision on this matter and requested Council to defeat the ordinance.

In response to questions of Council, the City Attorney advised that 1000 foot spacing was common throughout the country, the Courts had upheld amortization in the process of eliminating nonconforming uses, and that this was not unconstitutional. After she noted that research with the Institute of Government and into case law

in South Carolina had been done, Clyde Albright, Assistant City Attorney, spoke to details of several supporting cases.

Harold Hadnot, residing at 4605 Oak Cliff Drive, stated that in his opinion, the ordinance was unconstitutional. He expressed concern with respect to the financial impact this ordinance would have on his SOB and his personal life if it were adopted.

Following brief discussion, the City Attorney confirmed that the ordinance spacing would not apply to new construction if a SOB were there first. Councilmember Carmany advised that the change in the ordinance provision from five years to two years was made spontaneously by the Planning Board.

John Goins, residing at 817-A Silver Avenue, shared his opinion with respect to the ordinance conflicting with the constitution. He requested Council to deny the ordinance.

Jeff Barden, residing at 1045 North Cherry Street, Winston Salem, NC, stated he disagreed with the premise that property value decline was associated with close proximity to SOBs; he submitted reasons for his disagreement to Council.

Leo Welch, residing at 711 Franklin Boulevard, stated his concern with this matter was whether it was constitutional. He spoke to his involvement in unrelated legal matters involving constitutional law and stated he would challenge the ordinance if adopted.

The City Attorney explained that in her opinion, based on municipal case information received from the Institute of Government, the ordinance was not in violation of the constitution.

Ben Holder, residing at 3205 Howerton Circle, spoke to his perceptions regarding violations of human rights of women working in massage parlors and shared his opinion of how to address the rights of these massage parlor workers. He requested Council and staff to address this issue.

Following additional discussion, Councilmember Perkins moved to close the public hearing. The motion was seconded by Councilmember Phillips and unanimously adopted by voice vote of Council. Councilmember Phillips moved adoption of the ordinance. The motion was seconded by Councilmember Carmany; the ordinance was adopted on the following roll call vote: Ayes: Burroughs-White, Carmany, Holliday, Johnson, Jones, Perkins, Phillips, and D. Vaughan. Noes: None.

01-202 AMENDING CHAPTER 30

AN ORDINANCE AMENDING THE GREENSBORO CODE OF ORDINANCES WITH RESPECT TO ZONING, PLANNING AND DEVELOPMENT

WHEREAS, the Greensboro City Council has by various amendments to the zoning ordinances expressed its intention to limit or restrict the location of sexually oriented businesses in order to protect and preserve the health, safety and welfare of the citizens of neighborhoods where such businesses locate in close proximity thereof; and

WHEREAS, the City Council finds that sexually oriented businesses can create a climate for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, there is factual evidence based upon Greensboro Police Department crime statistics and judicially approved findings in other jurisdictions, and testimony from the business community that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them; and

WHEREAS, it is recognized that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in adjacent residential and institutional areas; and

WHEREAS, it is deemed in the best interest of the City to prevent these adverse effects and thereby protect the health, safety,

and welfare of the citizenry; protect citizens from increased crime, preserve the quality of life, preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, the City Council is fully aware of and fully respects the fundamental constitutional rights and guarantees of free speech and free expression and realizes that restrictions of such freedoms must be carefully drafted and enforced so that speech and expression are not curtailed beyond the point at which it is essential to further the City's interest in public health, safety and welfare; and

WHEREAS, over the years, various statutes and court interpretations have been enacted and decided, which compel periodic re-evaluation and revision of City ordinances and regulations; and

WHEREAS, the current Section 30-5-2.73.5, Sexually Oriented Businesses, should be amended to increase spacing between sexually oriented businesses to a minimum distance of 1000 feet and all nonconforming businesses have a period of two years within which to comply with this section.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

Section 1. That Section 30-5-2.73.5, Sexually Oriented Businesses, is hereby amended by rewriting subsection (B)(2) to read as follows:

“(2) No Sexually Oriented Business shall locate within ~~five hundred (500)~~ one thousand (1,000) feet of a church, public or private elementary or secondary school, child day care center or nursery school, public park, or residentially zoned property.”

Section 2. That Section 30-5-2.73.5, Sexually Oriented Businesses, is hereby amended by adding a new subsection (G) to read as follows:

“(G) *Discontinuance of nonconforming uses:* All nonconforming Sexually Oriented Businesses as listed below shall be discontinued within two (2) years from the effective date of Ordinance No. 01-202 adopted by the City Council on October 16, 2001. Uses to be discontinued under this section, whether principal or accessory, shall include Adult Arcades, Adult Cabarets, Adult Massage Parlors, Adult Motels, Adult Motion Picture Theaters, Adult Theaters, Nude Model Studios and Sexual Encounter Centers. Any of the aforementioned uses made nonconforming by subsequent amendment to this Ordinance shall be discontinued within two (2) years following the date of such amendment. Any property which becomes subject to this Ordinance, due to extension of zoning jurisdictional limits, shall have all aforementioned nonconforming uses discontinued within two (2) years following the date in which such property came within the zoning jurisdiction of the City. This section does not apply to Adult Bookstores and Adult Video Stores.”

Section 3. All ordinances in conflict with the provisions of this ordinance are repealed to the extent of such conflict.

(Signed) Thomas M. Phillips

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Mayor Holliday stated that this was the time and place set for a public hearing to consider an ordinance rezoning from RS-7 Residential Single Family to Conditional Use—RM-26 Residential Multifamily for property located at the northeast intersection of Martin Luther King Jr. Drive and East Florida Street; he advised this matter was being heard on appeal filed by Mark E. Funderburk after receiving a vote of 6 to 0 by the Zoning Commission to recommend denial of the request.

The City Attorney advised that due to recent court rulings, Council was no longer required to allow opposing sides to cross examine one another in the rebuttal phase of a conditional use zoning hearing.

The Mayor administered the oath to those who wished to speak to this matter.

Mr. Martin provided the following staff presentation:

REQUEST – ITEM 6

This request is to rezone property from RS-7 Residential Single Family to Conditional Use – RM-26 Residential Multifamily.

The RS-7 District is primarily intended to accommodate single family detached dwellings at a density of 5.0 units per acre or less.

The RM-26 District is primarily intended to accommodate multifamily uses at a density of 26.0 units per acre or less.

CONDITIONAL USE CONDITIONS FOR THE REQUESTED ZONING DISTRICT

- 1) Uses limited to a Two Family Dwelling (Duplex).

Mr. Martin presented a map, slides and a description of the property and surrounding property land use and zoning.

DESCRIPTION OF THE PROPERTY, SURROUNDING LAND USE AND ZONING

This property consists of approximately 0.19 acre and is located at the northeast intersection of Martin Luther King Jr. Drive and East Florida Street.

	<u>Zoning</u>	<u>Land Use</u>
Subject Property	RS-7	Vacant lot
North	RS-7	2 single family dwellings
East	RS-7	Matthews United Methodist Church
South	PI	Gillespie Golf Course
West	RS-7	Vacant single family dwelling

Mr. Martin stated that the Planning Department and the Zoning Commission had recommended denial of the request.

The Mayor asked if anyone wished to be heard.

The following speakers spoke in favor of the item:

Mark Funderburk, residence not stated, spoke to the condition of other property in the neighborhood, the staff opposition at the Zoning Commission hearing, his interest in serving low income housing needs, and his opinion that a duplex was the best use of the property. He suggested the criteria he believed Council should use when considering the property zoning and spoke to details of features of the property.

After Councilmember Johnson asked Mr. Funderburk if he had received a copy of a memo from the Redevelopment Commission he stated he did not have a copy of the memo. Councilmember Johnson explained that the memo indicated Mr. Funderburk had not given the Redevelopment Commission the opportunity to review his request, requirements had not been met, and the Commission was not inclined to support multi-family development outside the hearing process.

In response to Mr. Funderburk's statement that he had been unaware of Redevelopment Commission requirements prior to the Zoning Commission meeting, Mr. Martin advised Council of communication that had occurred between staff and Mr. Funderburk. Members of Council advised Mr. Funderburk of the appropriate legal process for his request and suggested he seek the input and support of the neighborhood association. In response to

Councilmember Phillip's request that appropriate departments consider providing written communication to citizens with respect to the legal procedures involving the Redevelopment Commission, the City Manager advised that review of communication processes would be addressed by staff. Mr. Martin clarified that the appropriate legal process would include a public hearing with the Redevelopment Commission followed by a public hearing with the Zoning Commission. Following questioning by Council, Mr. Funderburk stated that he had not understood what Mr. Martin had told him about the Redevelopment Commission and therefore, had not approached the Commission.

Following additional discussion with respect to tabling this matter to allow Mr. Funderburk to follow appropriate legal processes, Councilmember Johnson moved that the ordinance rezoning from RS-7 Residential Single Family to Conditional Use- RM-26 Residential Multifamily for property located at the northeast intersection of Martin Luther King, Jr. Drive and East Florida Street be continued to the February 19, 2002 Council meeting without further notice. The motion was seconded by Councilmember Perkins and unanimously adopted by voice vote of Council.

Mayor Holliday declared a recess at 7:45 p.m.

The meeting reconvened with all attending members present at 8:00 p.m.

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The Mayor stated that this was the time and place set to consider an ordinance rezoning from RS-9 Residential Single Family to RM-8 Residential Multifamily for property located on the west side of Martin Luther King Jr. Drive between South Benbow Road and Pennsylvania Street. He stated this matter was being heard on appeal filed by Mark E. Funderburk after receiving a vote of 0 to 6 by the Zoning Commission to recommend denial of the request.

Mr. Martin presented a map of land use of the property surrounding area and slides of the subject and surrounding property. He stated the Zoning Commission had denied the request.

The Mayor asked if anyone wished to be heard.

Speaking in favor of the ordinance was Mark Funderburk, residence not stated. He spoke to aspects of property investment and development and staff's opposition to the proposal. He shared his opinions with respect to what, in his opinion, was the best use of the property.

The following citizens spoke in opposition to the ordinance.

Leroy Mitchland, residence unknown, expressed concerns about parking and traffic hazards with respect to the proposed location. He stated that in his opinion, there would be incompatibility in appearance with the proposed four-plex and homes in this neighborhood.

Following brief questioning of staff with respect to parking requirements, Councilmember Carmany moved to close the public hearing. The motion was seconded by Councilmember D. Vaughan and unanimously adopted by voice vote of Council.

Mr. Martin provided the following staff recommendation:

Item 7 – Martin Luther King Jr. Drive

The Planning Department recommends that this request be denied.

This request singles out one small lot in the middle of a block of single family lots and proposes multifamily zoning for it.

The requested RM-8 zoning would theoretically allow four multifamily dwelling units to be placed on this lot.

Staff would rarely, if ever, recommend that a single lot in the middle of a block be rezoned in this fashion and, furthermore, without conditions.

Councilmember Perkins stated he could not support the rezoning because, in his opinion, rezoning in the middle of a single-family development would not set a precedent for smart growth. Councilmember Johnson thereupon moved to DENY the ordinance rezoning from RS-9 Residential Single Family to RM-8 Residential Multifamily for property located on the west side of Martin Luther King Jr. Drive between South Benbow Road and Pennsylvania Street. The motion was seconded by Councilmember Johnson; the ordinance was DENIED on the following roll call vote: Ayes: Burroughs-White, Carmany, Holliday, Johnson, Jones, Perkins, Phillips, and D. Vaughan. Noes: None.

(A copy of the defeated ordinance is filed in Exhibit N, Drawer Number 30, and is hereby referred to and made a part of these minutes.)

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Mayor Holliday stated that this was the time and place set for a public hearing to consider an ordinance rezoning from Limited Business to Highway Business for property located at the southeast intersection of Freeman Mill Road and West Florida Street. He noted this matter was being heard on appeal filed by Richard Bowling after receiving a vote of 0 to 6 by the Zoning Commission to recommend denial of the request.

Mr. Martin presented a land use map of the surrounding area and slides of the subject and surrounding property. He explained the primary differences between land use with respect to limited business and highway business use and why staff believed the property was a better fit for limited business use better than highway business use. He noted that spacing for bars still applied.

The Mayor asked if anyone wished to be heard.

Reginald Whitsett, residing at 14 Woody Valley Cove, spoke in favor of the ordinance. He stated he represented Richard Bowling, owner of the subject property which had been used as a shopping center for the past 25 years. He spoke to the recent hearing with the Zoning Commission, and stated that in his opinion, serving alcohol seemed to be the main reason for denial of the request. He provided information pertaining to the proportion of African American owned business establishments with alcohol licenses compared to Caucasian owned businesses with alcohol licenses; the percentage of business that was from outside the neighborhood; and efforts he had made to obtain a license to sell alcohol.

Councilmember Johnson advised that she had worked on this issue with Mr. Bowling for several years and that even if the property zoning were changed, aspects of the City zoning ordinance would make the probability of alcohol licensing unlikely. Mr. Martin noted the Code would have to be amended or a variance granted by the Board of Adjustments to permit the sale of alcohol at the proposed business establishment.

After discussion followed with respect to grand fathered businesses, the City Attorney advised that the grandfather clause was specific to land use of properties in effect prior to the current ordinance restrictions.

Gloria Rankin, residing at 1801-B Hudgin Drive, member of the resident's council of the Smith Homes community, spoke in opposition to the ordinance. She expressed her disagreement with respect to some of the information provided by Mr. Whittsett and stated that in her opinion, a night club would have the negative impact on residents of noise and crime near the proposed site. Stating she felt the community's safety would be compromised, Ms. Rankin requested Council to deny the rezoning.

Following brief discussion, Councilmember Phillips moved to close the public hearing. The motion was seconded by Councilmember Perkins and unanimously adopted by voice vote of Council.

Several Council members expressed concern with respect to perception that a disproportionate number of social clubs with alcohol licenses were not owned by African American businessmen, but noted that they could not support this rezoning.

Mr. Martin read definitions discussed earlier in the meeting from the Greensboro Code of Ordinances with

respect to location of highway business, distances from parking lots and districts permitting bars. He noted that the current zoning accurately matched its designated definition in the code and provided the following staff recommendation:

Item 8 – Freeman Mill Road/Florida Street

The Planning Department recommends that this request be denied.

Staff feels that the most appropriate commercial zoning classification is the one that currently applies to this property.

Limited Business is primarily intended to accommodate moderate intensity shopping and services close to residential areas.

The LB District is established to provide locations for businesses which serve nearby neighborhoods.

This LB District is typically located near the intersection of collectors or thoroughfares in areas which are otherwise developed with residences.

That describes the existing situation of this shopping center to a “T”.

There are a number of higher intensity land uses that are permitted in Highway Business but not in Limited Business.

Bars, restaurants with drive through service, pawnshops, automobile sales lots, and truck stops are examples of uses that are permitted in HB but not in LB.

Staff feels that these higher intensity uses may not be compatible with the surrounding residential areas.

Staff feels that the most appropriate zoning classification for this shopping center is Limited Business and does recommend denial of this request.

Councilmember Phillips moved to deny the ordinance. The motion was seconded by Councilmember D. Vaughan. After the vote was recorded, Councilmember Burroughs-White stated she had not intended to place this vote. The Mayor requested the Clerk to clear the board. Council revoted and the ordinance was DEFEATED on the following roll call vote: Ayes: Burroughs-White, Carmany, Holliday, Johnson, Jones, Perkins, Phillips, and D. Vaughan. Noes: None.

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Mayor Holliday stated this was the time and place set for a public hearing to consider a resolution closing Torrence Drive – from West JJ Drive northward to its end, a distance of approximately 400 feet.

The Mayor asked if anyone wished to be heard. There being no one present wishing to speak to this matter, Councilmember Perkins advised that he had a direct financial interest in this matter and requested to be excused from voting. Councilmember Carmany moved to excuse Councilmember Perkins from voting due to a conflict of interest. The motion was seconded by Councilmember D. Vaughan and unanimously adopted by voice vote of Council.

Councilmember Carmany thereupon moved adoption of the resolution. The motion was seconded by Councilmember D. Vaughan; the resolution was adopted on the following roll call vote: Ayes: Burroughs-White, Carmany, Holliday, Johnson, Jones, Perkins, Phillips, and D. Vaughan. Noes: None, with Councilmember Perkins abstaining due to conflict of interest.

204-01 RESOLUTION CLOSING TORRENCE DRIVE – FROM WEST JJ DRIVE NORTHWARD TO ITS
END, A DISTANCE OF APPROXIMATELY 400 FEET

WHEREAS, the owners of all of the property abutting both sides of Torrence Drive have requested in writing that said street be closed to the general public and the City's interest therein released;

WHEREAS, a notice was duly published that a public hearing would be held by the City Council in the Council Chamber in the Municipal Office Building on Tuesday, October 16, 2001 at 6:00 p.m. on the closing of said street;

WHEREAS, the public hearing has now been held and no objections have been made to the closing thereof.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

1. That the City Council hereby finds as a fact that the owners of all of the property abutting both sides of the hereinafter mentioned street have requested in writing that said street be closed to the general public and the City's interest therein released.
2. That the City Council hereby finds as a fact that the closing of the street to the general public is not contrary to the public interest and that no individual or other party owning property in the vicinity of the street or in the subdivision in which the street is located will be deprived of the reasonable means of ingress or egress to his or its property.
3. That the following street is hereby permanently closed to the general public and the City's interest therein released:

TORRENCE DRIVE – FROM WEST JJ DRIVE NORTHWARD TO ITS END, A DISTANCE OF APPROXIMATELY 400 FEET

4. That the City of Greensboro hereby reserves a utility easement over each existing utility line located in the above-mentioned street until such time as said line is no longer required by the City.

(Signed) Sandy Carmany

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Moving to the consent agenda, Councilmember D. Vaughan moved adoption of the consent agenda. The motion was seconded by Councilmember Jones; the consent agenda was adopted on the following roll call vote: Ayes: Burroughs-White, Carmany, Holliday, Johnson, Jones, Perkins, Phillips, and D. Vaughan. Noes: None.

01-204 ORDINANCE AMENDING STATE, FEDERAL, AND OTHER GRANTS FUND BUDGET FOR URBAN FORESTRY PROJECTS FOR THE PLANNING DEPARTMENT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That the FY 01-02 Budget of the City of Greensboro is hereby amended as follows:

That the appropriation to the State, Federal and Other Grants Fund be increased as follows:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
220-2051-01.5431	Printing	\$926
220-2051-01.5928	In-Kind Services	<u>\$926</u>
TOTAL:		\$1,852

and, that this increase be financed by increasing the following State, Federal and Other Grants Fund account:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
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202-2051-01.7110	State Grant	\$926
202-2051-01.8695	In-Kind Services	<u>\$926</u>
TOTAL:		\$1,852

(Signed) Donald R. Vaughan

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01-205 ORDINANCE AMENDING STATE, FEDERAL AND OTHER GRANT FUND BUDGET FOR FY
2001-2002 PARKS AND RECREATION "HALLELUJAH/IN PRAISE OF OUR DIFFERENCES"
PERFORMANCE PROJECT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That the State, Federal and Other Grant Fund Budget of the City of Greensboro is hereby amended as follows:

That the appropriation for the State, Federal and Other Grant Fund be increased as follows:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
220-5065-01.5413	Consultant Services	\$ <u>28,940</u>
Total		\$ 28,940

and, that this increase be financed by increasing the following State, Federal and Other Grant Fund account:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
220-5065-01.7170	Local Grants	\$ <u>28,940</u>
Total		\$ 28,940

(Signed) Donald R. Vaughan

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01-206 ORDINANCE AMENDING THE FEDERAL, STATE, AND OTHER GRANTS PROJECT FUND
BUDGET FOR THE PURCHASE OF BICYCLE SAFETY HELMETS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That the appropriation for the Federal, State and Other Grants Fund be increased as follows:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
220-3525-06.5235	Small Tools and Equipment	<u>\$2000</u>
Total		\$2000

And, that this increase be financed by increasing the following Federal, State, and Other Grants Fund accounts:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
220-3525-06.7110	Local Government Grants	<u>\$2000</u>
Total		\$2000

(Signed) Donald R. Vaughan

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01-207 ORDINANCE AMENDING STATE, FEDERAL AND OTHER GRANT FUND BUDGET FOR FY
2001-2002 PARKS AND RECREATION N.C. URBAN AND COMMUNITY FORESTRY GRANT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That the State, Federal and Other Grant Fund Budget of the City of Greensboro is hereby amended as follows:

That the appropriation for the State, Federal and Other Grant Fund be increased as follows:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
220-5063-01.5413	Consultant Services	\$ <u>10,000</u>
Total		\$ 10,000

and, that this increase be financed by increasing the following State, Federal and Other Grant Fund account:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
220-5063-01.7110	State Grant	\$ <u>10,000</u>
Total		\$ 10,000

(Signed) Donald R. Vaughan

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205-01 RESOLUTION AUTHORIZING ACCEPTANCE OF DEED IN LIEU OF TAXES AND ASSESSMENTS
TO THE CITY OF GREENSBORO BY JARRETT CONSTRUCTION COMPANY, INC.

WHEREAS, Jarrett Construction Company wishes to convey property located at the southwest corner of the intersection of Tower Road and Dolley Madison Road, in lieu of taxes and assessments, said property being shown as cross-hatched on the attached map;

WHEREAS, the Greensboro Department of Transportation has an interest in utilizing said property for additional right of way at this intersection and has agreed to pay the taxes and assessments;

WHEREAS, it is deemed in the best interest of the City to accept this deed in lieu of taxes and assessments from Jarrett Construction Company, Inc.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That, on behalf of the City of Greensboro, the City Council hereby approves and accepts the deed in lieu of taxes and assessments plus interest, if any, of property located at the southwest intersection of Tower Road and Dolley Madison Road.

(Signed) Donald R. Vaughan

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206-01 RESOLUTION AUTHORIZING CITY ATTORNEY TO INSTITUTE PROCEEDINGS TO CONDEMN
PORTION OF THE PROPERTY OF DOROTHY M. BRAME, IN CONNECTION WITH THE PISGAH
CHURCH ROAD AT BATTLEGROUND INTERSECTION IMPROVEMENTS PROJECT

WHEREAS, Dorothy M. Brame is the owner of certain property located on Pisgah Church Road, said property being as shown on the attached map;

WHEREAS, a portion of said property is required by the City in connection with the Pisgah Church Road at Battleground Intersection Project;

WHEREAS, negotiations with the owners at the appraised value of \$1,065.00 have been unsuccessful and said portion of property is necessary for said project;

WHEREAS, it is deemed necessary and in the best interest of the City that the City Attorney be authorized to institute civil proceedings to condemn said portion of property and that the Director of Finance be authorized to issue a draft to the Clerk of Superior Court as compensation to the owners in the amount of \$1,065.00;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That, pursuant to Chapter 40A of the North Carolina General Statutes, the City Attorney is hereby authorized to institute condemnation proceedings to acquire said portion of property, and the Director of Finance is hereby authorized to issue a draft in the amount of \$1,065.00 to the Clerk of Superior Court as compensation to the owners, payment to be made from Account No. 402-4531-01.6012.CBR 007.

(Signed) Donald R. Vaughan

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207-01 RESOLUTION APPROVING AN INCREASE IN THE ORIGINAL LOAN AMOUNT TO COVER ADDITIONAL INTEREST COSTS FOR THE RICHARDSON VILLAGE APARTMENTS MULTI-FAMILY PROJECT

WHEREAS, the Department of Housing and Community Development has secured a Section 108 Loan to fund the L. Richardson Hospital and Richardson Village Apartments projects;

WHEREAS, these funds have been delayed which has resulted in higher than anticipated interest in the amount of \$16,000.00 on the Richardson Village Apartments project that the developer has requested be added to the original loan amount;

WHEREAS, the additional funds will be paid out of this year's Section 108 loan repayment budget.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That the City Council of the City of Greensboro hereby approves an increase of \$16,000.00 to the original Section 108 loan amount to cover additional interest for the Richardson Village Apartments Multi-Family project.

(Signed) Donald R. Vaughan

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208-01 RESOLUTION APPROVING BID AND AUTHORIZING EXECUTION OF CONTRACT NO. 2001-36 FOR THE MUIRS CHAPEL WATER TANKS INTERIOR RE-PAINTING AND REPAIRS IMPROVEMENTS PROJECT

WHEREAS, after due notice, bids have been received for the Muirs Chapel Water Tanks Interior Re-Painting and Repairs Improvements project;

WHEREAS, Dynamic Painting Corporation, a responsible bidder, has submitted the low base and alternate bid in the total amount of \$493,780.00 as general contractor for Contract No. 2001-36, which bid, in the opinion of the City Council, is the best bid from the standpoint of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That the bid hereinabove mentioned submitted by Dynamic Painting Corporation is hereby accepted, and the Mayor and City Clerk are hereby authorized to execute on behalf of the City of Greensboro a proper contract to carry the proposal into effect, payment to be made from Account No. 503-7011-01.5625.

(Signed) Donald R. Vaughan

(A tabulation of bids is filed with the above resolution and is hereby referred to and made a part of these minutes.)

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A motion to approve report of budget adjustments covering period of August 1-31, 2001 was unanimously adopted. (A copy of the report is filed in Exhibit Drawer N, Exhibit Number 1 and is hereby referred to and made a part of these minutes.)

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A motion to approve minutes of special meeting of September 25, 2001 and regular meeting of October 2, 2001 was unanimously adopted.

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Mayor Holliday introduced an ordinance amending Chapter 17 of the Greensboro Code of Ordinances with respect to nuisances in the nature of damaged residential property that is a public hazard. The City Manager explained that this amendment would require property damaged by fire to be raised, rebuilt, repaired or fenced to secure within thirty days. Councilmember D. Vaughan stated that Councilmember Nancy Vaughan had originally requested development of this ordinance in response to a situation in her district.

Councilmember D. Vaughan thereupon moved adoption of the ordinance. The motion was seconded by Councilmember Jones; the ordinance was adopted on the following roll call vote: Ayes: Burroughs-White, Carmany, Holliday, Johnson, Jones, Perkins, Phillips, and D. Vaughan. Noes: None.

01-209 AMENDMENT TO CHAPTER 17

AN ORDINANCE AMENDING CHAPTER 17 OF THE GREENSBORO CODE OF ORDINANCES WITH RESPECT TO NUISANCES

Section 1. That Section 17-1 of the Greensboro Code of Ordinances is hereby amended to read as follows:

Section 17-1(a) by adding the following Subsection numbered as Subsection 17-1(a)(8):

"(8) Structures and remains of structures in, or abutting, residential districts, which are in a damaged condition as the result of fire, wind, flood, or other disaster and which remain in an un-repaired state for a period of 30 days from the date the disaster occurs. For purposes of the enforcement of this subsection a condition that is detrimental, dangerous, or hazardous to the public safety, health and welfare shall be a condition, which consists of one, or more, of the following:

- i. glass, metal, or other sharp objects in accessible areas;
- ii. unstable structures or trees which may fall or collapse;
- iii. holes, excavations, surviving foundations or walls that may collapse or create heights in excess of three feet in areas where they may be scaled;
- iv. any substance which is hazardous or harmful to humans or pets; and
- v. any open or accessible utility lines such as natural gas, water, sewer, or electrical.

'Any owner of property, which is in non-compliance with this subsection, may enclose the portions of their property in violation with a secure fence of five (5) feet in height, which prevents the entry of humans until such time as the property is repaired to Code standards or completely demolished and is no longer in a detrimental, dangerous or hazardous state. Such enclosure shall be deemed compliance with this subsection."

Section 2. That all laws and clauses of the laws in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 3. That his ordinance shall become effective immediately upon adoption.

(Signed) Donald R. Vaughan

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Mayor Holliday introduced a resolution authorizing change order in contract no. 2001-16 with John S. Clark Company, Inc. for the Multi-modal Transportation Center.

The City Manager advised that after digging began on the project, bad soil had been discovered. He noted this was not an uncommon reason for a change order and stated the project was still within the overall budget. Following remarks by Councilmember Phillips with respect to the overall expense of the project, Councilmember Carmany moved adoption of the resolution. The motion was seconded by Councilmember Jones; the resolution was adopted on the following roll call vote: Ayes: Burroughs-White, Carmany, Holliday, Johnson, Jones, Perkins, D. Vaughan. Noes: Phillips.

209-01 RESOLUTION AUTHORIZING CHANGE ORDER IN CONTRACT NO. 2001-16 WITH JOHN S. CLARK COMPANY, INC. FOR THE MULTI-MODAL TRANSPORTATION CENTER

WHEREAS, Contract No. 2001-16 with John S. Clark Company, Inc. provides for general construction for the renovation, construction and necessary site work for the Multi-Modal Transportation Center located at 238 East Washington Street;

WHEREAS, site conditions not identified previously, namely removal and replacement of unsuitable soil conditions that have been graded to date, addition of various structural steel components necessary for renovations and the removal and replacement of an extra portion of the chimney have been discovered since construction began, thereby necessitating a change order in the contract in the amount of \$400,685.00.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That a change order in the above-mentioned contract with John S. Clark Company, Inc. for the correction of discovered site conditions is hereby authorized at a total cost of \$400,685.00, payment of said additional amount to be made from Account No. 566-4511-01.6059 (CBR 001).

(Signed) Sandy Carmany

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Following brief discussion with respect to the schedule of the scheduled November 5 Council meeting date and the November 6 election, Councilmember Johnson moved an that an ordinance amending Chapter 2 of the Greensboro Code of Ordinances be adopted to change the meeting date from November 5, 2001 to November 7, 2001. Councilmember Phillips objected, stating he did not have his calendar with him. The motion was seconded by Councilmember D. Vaughan; the ordinance was adopted on the following roll call vote: Ayes: Burroughs-White, Carmany, Holliday, Johnson, Jones, Perkins, and D. Vaughan. Noes: Phillips.

01-208 AMENDING CHAPTER 2

AN ORDINANCE AMENDING CHAPTER 2 OF THE GREENSBORO CODE OF ORDINANCES WITH RESPECT TO COUNCIL MEETINGS

Be it ordained by the City Council of the City of Greensboro:

Section 1. That Section 2-16 of the Greensboro Code of Ordinances is hereby amended by changing the date of the regular City Council meeting of November 5, 2001 to November 7, 2001.

Section 2. That all laws and clauses of laws in conflict in the provision of this ordinance are hereby repealed to the extent of such conflict.

Section 3. That this ordinance shall become effective immediately upon adoption.

(Signed) Yvonne Johnson

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The City Manager advised Council that four speakers from Wadsworth Church had been signed up to speak from the floor, but were no longer in attendance. He stated that Water Resources Department staff would contact them.

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Cameron Falkener, residing at 133 N. Dudley Street, distributed information to Council with respect to the history of Fire Station #4. He stated the 40th anniversary of the fire station was approaching and requested Council to name the station in honor of his father, Waldo C. Falkener, Jr., who was a member of the station and had played a key role in getting the fire station built or present a plaque honoring the station's original 28 African American firefighters. Mr. Falkener requested a commemoration ceremony be held at Fire Station #4's upcoming 40th anniversary celebration.

Councilmember Johnson requested the City Manager and Council to consider this request and noted her strong support. The Manager advised that he would work with Ms. Johnson to bring this matter to Council for consideration at their next meeting.

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The City Manager stated he had recently sent Council a memo with respect to funding allocated to downtown Greensboro for the 2001 Holiday Parade. He explained that no formal action was necessary on Council's part and that he intended to proceed with the release of the funds which had been held in reserve during the recent State budget process unless directed otherwise. No other directions were offered by Council.

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Keri Stone, residing at 1103 Quail Drive, provided information with respect to the parade budget and the schedule. Council expressed appreciation to Ms. Stone and those involved in parade organization efforts.

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In response to questions from Councilmember Johnson, the Mayor advised that he had contacted Board of Adjustment members who were eligible for term renewal in an effort to determine who would step down to create a vacancy for a minority board member to increase diversity on the board. Mayor Holliday noted that all of the members wished to be reappointed and had excellent attendance and service records on the board. He proposed to Council three options for selecting a member to be replaced by a candidate that would add diversity to the board. The City Attorney advised that enlarging the board would require legislative authorization to get an amendment to the Greensboro Charter.

Councilmember Phillips offered his opinion that Cameron Cooke would have the best understanding of the Council's need to increase diversity of the board because he was active on the Comprehensive Plan Steering Committee and had a long history of boards and commissions participation. Councilmember Carmany stated that no policy existed with respect to mandatory reappointment of members of boards and commissions when their terms expire.

Councilmember Phillips thereupon moved that Cameron Cooke be removed from the Board of Adjustment. The motion was seconded by Councilmember Johnson and adopted by a 7-1 voice vote of Council.

Councilmember Jones moved that Hugh Holston be appointed to the Board of Adjustment to replace Cameron Cooke; this term will expire 15 June 04. The motion was seconded by Councilmember D. Vaughan and unanimously adopted by voice vote of the Council.

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Councilmember Johnson added the names of Odysseus Chavis to the boards and commissions databank for consideration of future service and Julius Koonce to the data bank for consideration of future service on the Planning Board.

Councilmember Phillips requested Council submit candidates' resume information to staff prior to meetings so that information could be distributed to Council before boards and commissions actions were taken.

Councilmember Perkins added the name William Fuller to the boards and commissions data bank for consideration of future service.

Councilmember Carmany moved that Ruth Revels be appointed to the Greensboro Community Television Board; this term will expire 01 July 2004. The motion was seconded by Councilmember D. Vaughan and unanimously adopted by voice vote of Council.

Councilmember Carmany placed the name of Dave Atkins in the boards and commissions data bank for consideration of future service for the Planning Board.

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Councilmember D. Vaughan moved that Kevin Greene be appointed to the War Memorial Commission to serve in the position formerly held by Richard Maxwell; this term will expire 15 August 04. The motion was seconded by Councilmember Perkins and unanimously adopted by voice vote of the Council.

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Councilmember D. Vaughan moved that Paul Mengert be appointed to the Parks and Recreation Commission to serve in the position formerly held by Kevin Green; this term will expire 15 August 04. The motion was seconded by Councilmember Burroughs-White and unanimously adopted by voice vote of Council.

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Councilmember Burroughs-White added the name of Michael E. McLean to the boards and commissions data bank for consideration of future service for the Human Relations Commission.

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Mayor Holliday placed the names of Michael Ranieri, Roderick Jessup, Carl Ashby, III, and William Morely in the boards and commissions data bank for consideration of future service.

The Mayor moved to reappoint Brian Byrd, Donald Sparrow and Marshall Tuck to the Board of Adjustment; these terms will expire 15 June 2004. The motion was seconded by Councilmember D. Vaughan and unanimously adopted by voice vote of Council.

The Mayor announced he had appointed David Sullivan to the Comprehensive Plan Steering Committee to replace the position formerly held by Jessica Parks.

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Council discussed their recent efforts with respect to planning future solid waste disposal options. Potential solutions discussed included the need to plan for one or more transfer stations in the region, evaluate large transfer and disposal sites with respect to economy of scale and a long term waste to energy option, and exploration of cutting edge technology options with local and distant universities.

The location of transfer stations was discussed with respect to possible locations in Greensboro or Guilford County, and proximity to railroads. The City Manager confirmed with Council that per Council's direction,

locations sited for new facilities would not include White Street Landfill and that site selection would be a later stage of the developing process.

After lengthy discussion, Council requested the City Manager and Jeryl Covington, Environmental Services Director, bring to Council a concentration on transfer station information for short and long run options and large scale regional facilities for long run options and other information pertaining to their discussion. Coordination of a field trip to Durham was also requested was requested by Council.

The City Manager stated the November briefing would focus on providing information with respect to transfer stations; offered that after the briefing, staff could come back to Council with process proposals for transfer stations; and advised that the waste to energy issue and site selection would be debated at a later time unless Council directed otherwise. The Mayor stated that he would pursue a full regional meeting.

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Councilmember Jones stated he had received a concern with respect to vender operation and street closing processes at the NC A&T Homecoming Parade. He advised Mr. Martin that he would fax a memo sent from the Planning Department to vendors for Mr. Martin to clarify.

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Councilmember Carmany presented to Council 911 buttons obtained from the North Carolina League of Municipalities.

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Councilmember Perkins spoke to a letter of appreciation sent from the Westerwood Neighborhood Association to Police Chief White, praising a number of police officers for their voluntary attendance at a recent neighborhood meeting. Councilmember Perkins requested the Manager to extend his appreciation to Police Chief White for the officers' crime prevention efforts.

The Mayor requested Council to consider a policy to adopt resolutions to honor City workers killed in the line of duty and stated he would request a decision on this matter at the next meeting.

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Councilmember Carmany advised that a date still needed to be set to reschedule the postponed district 5 Council meeting.

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The City Manager advised that he had recently recognized ten City employees for what they do off the job on their own time to go out of their way to help citizens they have come in contact with to enhance their lives. He expressed appreciation for this dedication.

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The Manager stated he was required by the Greensboro Code of Ordinances to inform Council of his appointment of Patsy Burks to the position of Human Resource Director. He noted her outstanding credentials and accomplishments.

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Council discussed recent and upcoming local events.

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Councilmember Johnson moved that the meeting be adjourned. The motion was seconded by Councilmember D. Vaughan and unanimously adopted by voice vote of Council.

THE MEETING WAS ADJOURNED AT 10:08.

Susan E. Crotts
Deputy City Clerk

Keith A. Holliday
Mayor